

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1929.02
COMPLAINT INVESTIGATOR:	Bridget Hand
DATE OF COMPLAINT:	June 10, 2002
DATE OF REPORT:	July 10, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 23, 2002

COMPLAINT ISSUES:

Whether the Salem Community Schools and the South Central Area Special Education Cooperative violated:

511 IAC 7-27-9(b) by failing to make available to a student with a disability, the same opportunity to participate in recess as the student's non-disabled peers, as a result of the school's alleged failure to make the playground and the playground equipment accessible to a student with an orthopedic impairment.

FINDINGS OF FACT:

1. The student (the "Student") is eight years old and eligible for special education and related services as a student with an orthopedic impairment. The Student uses a wheelchair and has attended the same school since kindergarten.
2. In March 2001, the school submitted a grant application to purchase a wheelchair swing and frame. The grant was denied. The school states alternative funding was explored but did not provide any additional details.
3. The physical therapist states that the playground "is paved around the perimeter. In the center are two separate areas with shredded tires as the ground cover." The Complainant states that the Student cannot maneuver her wheelchair through the shredded tire ground cover. The physical therapist further states that "[t]he need for a path through the ground cover, which a wheelchair could maneuver, was noted" during the case conference committee (CCC) meeting in May 2002. However, no documentation of this discussion is included in the CCC Summary/IEP dated May 9, 2002. The only documented discussion regarding playground equipment is in the parental concern section, where it states: "Parental Concerns: Handicap accessible playground equipment would be nice."
4. On May 20, 2002, the physical therapist reports a telephone conversation with the Complainant regarding the suggestion of the Principal to get a small basketball goal instead of a platform swing. The Physical Therapist reports that the Complainant "felt this would be [okay]" as it gave the Student something to do on the playground. The Director states the Complainant later advised the school that this was not what she wanted for the Student and, consequently, no further action has taken place on acquiring the basketball goal.
5. To date, the playground contains no wheelchair accessible playground equipment available for use by the Student.

6. The school has contacted the National Center on Accessibility for product information and on July 1, 2002, held a meeting with the Complainant to discuss specific equipment that would be appropriate for the Student as well as suggestions as to how to make the playground accessible for the Student.

CONCLUSION:

Findings of Fact #2 through #6 show that, since the Student began attending the school three years ago, the school has not made available the variety of nonacademic activities for the Student that are made available to nondisabled students through the use of the playground and playground equipment. There is no accessible playground equipment, and the Student's access to the playground is limited to the playground's paved perimeter path. The playground remains inaccessible to the Student, although the school is working to correct the situation. A violation of 511 IAC 7-27-9(b) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusion listed above.

CORRECTIVE ACTION:

The Salem Community Schools and the South Central Area Special Education Cooperative shall install wheelchair accessible playground equipment and any surfaces (paving, ramps, etc.) necessary to make the school's playground wheelchair accessible. Documentation in the form of an assurance statement that describes the newly installed playground equipment and photographs of the playground shall be submitted no later than September 23, 2002.